REMARKS

Claims 1, 3-30 and 32-44 are all the claims pending in the application. Claim 1, 18, 30, 37, 39, 41, 42 and 44 are independent claims.

I. Claim Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 1, 3-30 and 32-44 under 35 U.S.C. § 102(e) as allegedly being anticipated by Brown, et al. (US 2003/0119248) (hereinafter "Brown").

The Applicant respectfully disagrees for the reasons set forth below.

Claim 1

With regard to claim 1, the Applicant submits that Brown fails to disclose where the communication device that communicates information to a remotely located media-based network service *enables control of the remotely located media-based network service according to the current state of the communication device*, as stated in claim 1. The Examiner cites to paras. [0028] and [0031]-[0033] as disclosing the elements of the claimed invention, but nothing in Brown discloses where communication of the state of the device "enables control" of the network in Brown. In fact, Brown discloses the opposite situation in para. [0031], where the unavailability of a called party will cause the system to act on its own to attempt to complete a call between the parties when the system determines that the parties are available.

Furthermore, Brown fails to disclose where "the remotely located media based network service comprises a *voicemail system*," as recited in claim 1 (emphasis added). The Examiner cites to paras. [0053] and [0061] of Brown, which only disclose how a called party can notify a

system of a change in the subscriber's availability or how the system can passively detect the subscriber's availability. At no point does Brown disclose that the system described is a voicemail system, nor does Brown even mention the use of voicemail in its system. In fact, Brown lists different options for the "pre-call notification" in para. [0061] that are limited to electronic mail messages, instant messages or a telephone call, but Brown never mentions the use of voicemail.

As Brown fails to disclose each and every element of claim 1, the Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(e) be withdrawn.

Claims 3-17

The Applicant submits that claims 3-17 are allowable at least based on their dependency on claim 1, and further in view of the arguments presented immediately below.

Claim 3

The Applicant submits that Brown fails to disclose where the remotely located media based network service comprises a video based system, as Brown makes no mention of the use of video or a system based upon video. The cited section of Brown only mentions the use of e-mail, SMS or voice communications, but lacks any disclosure of a video-based system.

Claim 4

The Applicant submits that Brown fails to disclose the elements of claim 4, as Brown makes no mention of a "plurality of prerecorded greetings" or where control of the greetings comprises "selection of one of said greetings in accordance with the currently assumed state."

Specifically, Brown never discloses that either the calling or called party can select a greeting that will be played to the other party if one party is unavailable. Instead, Brown teaches that the system monitors availability of the party and notifies each party as to when the other party is available or unavailable for a call. There is no disclosure of a "prerecorded greeting" that one party would record for the other, as disclosed in claim 4. Further, Brown never discloses where the greeting is played back as a voicemail reply to a calling party, as Brown fails to even describe a voicemail system in the first place.

For at least these reasons, the Applicant submits that Brown fails to disclose the elements of claim 4, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 18

The Applicant submits that Brown fails to teach each and every element of claim 18, as required for a rejection under 35 U.S.C. § 102(e), as Brown fails to disclose a user client that is operable to "configure said communication device for communication with a remotely located *voicemail system* so as to apply settings to said *voicemail system*," as recited in claim 18 (emphasis added). Brown fails to describe any system that uses voicemail, and Brown further fails to describe any communication device where a user client configures the device into a state and then applies settings to a remote system.

Brown is limited to "a system and method for establishing a voice (or data) connection between two parties based on their availability," (*Brown, Abstract*), while the embodiment described in claim 18 is directed to a communication device that communicated with a voicemail system regarding the state of the communication device. Brown never discusses the use of a

voicemail system, as Brown is limited to interacting with two parties, and does not provide any indication of the use of a voicemail system even when one or more of the parties is unavailable.

As Brown fails to teach any embodiment that describes a communication device with a user client that communicates with a remotely located voicemail system, the Applicant submits that Brown fails to anticipate claim 18. The Applicant respectfully requests that the rejection of claim 18 be withdrawn.

Claim 19-29

The Applicant submits that claims 19-29 are allowable at least based on their dependency to claim 18.

Claim 30

The Applicant submits that Brown fails to disclose each and every element of claim 30, as required for a rejection under 35 U.S.C. § 102(e), as Brown fails to describe a server-based subscriber service system where a voicemail greeting can be selected depending on the state of the called party handset.

As discussed above with regard to claim 18, Brown fails to describe the use of voicemail, while claim 30 explicitly states that "the selected content is a voicemail greeting." *Claim 30.* Further, claim 30 describes "a content selection unit," which "uses data representing a current state of a called party handset to select said content for output by said output unit." Brown, however, is limited simply to determining the availability of a called party, and does not provide for the personalized selection of a voicemail greeting based on the status of the called party

handset. In fact, Brown, in para. [0031], describes that if a called party is unavailable, "the system will attempt to complete a call between the parties when it determines that they are available." There is no discussion in Brown of an unavailable called party using voicemail or a voicemail system to select a voicemail greeting based on the state of the called party handset, as described in claim 30.

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 30, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 32-36

The Applicant submits that claims 32-36 are allowable at least based on their dependency to claim 30.

Claim 37

The Applicant submits that Brown fails to anticipate each and every element of claim 37, as Brown fails to describe where received data is used to select, "from said received media content, a content item for use in said subscriber service." The Examiner cites again to Brown, Fig. 1, page 3, paras. [0028], [0031] - [0033] and page 5, paras. [0053] and [0061], which are limited simply to a system that determines when two parties are available in order to complete a call between the parties. Brown describes various methods of determining the availability of a party, including "pre-call notification" (para. [0061]), however, nothing in Brown describes a method of providing remote control to a server-based subscriber service where media content

and data concerning the media content are used to select a content item for use in the subscriber service.

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 37, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 38

The Applicant submits that claim 38 is allowable at least based on its dependency to claim 37.

Claim 39

The Applicant submits that Brown fails to anticipate each and every element of claim 39, as Brown fails to describe a "server based greeting system located remotely from said handset over a communication network." Brown is limited simply to determining the availability of two parties for a call, and does not provide any discussion or description of a greeting system for "storing a plurality of greetings associated with a given user handset." Further, Brown also fails to describe "a selector for selecting one of said greetings as a current greeting for playing to a rejected call forwarded from said handset," as recited in claim 39. In fact, Brown fails to even mention the use of a greeting that would be used for a rejected call, as the only thing Brown describes with regard to a greeting is a "pre-call notification" that is used to send a notification to a called party *before* a call is made, not once the call is rejected. *Brown*, para. [0061].

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 39, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 40

The Applicant submits that claim 40 is allowable at least based on its dependency to claim 39.

Claim 41

The Applicant submits that Brown fails to anticipate each and every element of claim 41, and refers the Examiner to the arguments presented above with regard to claim 39, as Brown fails to describe a server-based greeting system that is used to select a greeting to be played upon rejection of an incoming call. Further, Brown also fails to describe "an indicator for instructing said selector to select a greeting *presently being recorded at said handset as said current message*, thereby to allow a realtime recorded greeting to be played as a voicemail greeting to said current incoming call." At no point does Brown describe the ability to record a greeting in real time such that the greeting can be used as a voicemail greeting for an incoming call that is being rejected.

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 41, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 42

The Applicant submits that Brown fails to anticipate each and every element of claim 42, as Brown fails to describe a "voicemail greeting system" or "a memory for storing a plurality of voicemail greetings as a current greeting for playing a rejected call forwarded from said handset," as recited in claim 42. The Applicant refers the Examiner to the arguments presented above with regard to claims 18, 30 and 39, and submits that claim 42 is not anticipated by Brown for at least the same reasons stated therein.

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 42, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

Claim 43

The Applicant submits that claim 38 is allowable at least based on its dependency to claim 37.

Claim 44

The Applicant submits that Brown fails to anticipate each and every element of claim 44, as Brown fails to disclose a "server based greeting system" that receives "a rejection of a current incoming call" along with "an indicator for instructing said selector to select a greeting *presently being recorded at said handset* as said current message, thereby allowing a realtime recorded greeting to be played as a voicemail greeting to said current incoming call." The Applicant

refers the Examiner to the arguments presented above with regard to claim 41, and submits that claim 44 is allowable for at least the same reasons.

For at least these reasons, the Applicant submits that Brown fails to teach each and every element of claim 44, and respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

II. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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